

---

## ARBITRATION

ROLAND WATKINS,  
Director

The Office of Arbitration Services manages arbitration of grievance disputes over existing collective bargaining agreements per statutory authority under “Section 3” of the Railway Labor Act (RLA). The RLA provides for both Grievance Arbitration and Interest Arbitration in the airline and railroad industries.

## ARBITRATION OVERVIEW

### GRIEVANCE ARBITRATION

Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense.

The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. [A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at [www.nmb.gov](http://www.nmb.gov). See Forms on the Documents page.] The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the salaries and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

### INTEREST ARBITRATION

Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration.

The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute; in some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.

## ARBITRATION HIGHLIGHTS

The Office of Arbitration Services directed its attention to promoting a more efficient Section-3 process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2012 by targeting the backlog of grievance arbitration cases for resolution, increasing the number of arbitrators available to hear and decide cases and introducing more technology to the administrative processing of cases with its arbitrators. Grievance Mediation was also actively promoted and successfully utilized as an alternative to arbitration. The 2,084 cases pending at the end of FY 2012 is the lowest in NMB history: 300 less cases than last year.

The NMB Arbitration program increased its efforts to modernize the processing of minor disputes. The agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. In January 2012, the NMB additionally introduced Arbitrators Workspace. The Arbitrators Workspace is a web based information system which gives each arbitrator online access to their case information. This system is used by the arbitrators to request work and submit requests for compensation for work. The Arbitrators Workspace replaced numerous hard-copy forms. The use of online dispute resolution was also successfully promoted at the National Railroad Adjustment Board (NRAB).

The level of grievance activity handled through the NMB Arbitration program decreased as compared to the activity in FY 2011. During FY 2012, the parties brought 3,569 cases to arbitration compared to 3,908 cases in FY 2011. In FY 2012, 3,869 cases were closed compared to 4,294 in FY 2011, leaving only 2,084 cases pending at the end of FY 2012. This decrease is partly attributable to the successful use of grievance mediation as an alternative means for resolving grievances.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad, Burlington Northern Santa Fe, Kansas City Southern Railway and CSX Transportation. The Office of Arbitration Services met with all labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section 3 process under the Railway Labor Act (RLA), thereby reducing the backlog of cases and furthering the RLA objective of prompt resolution of minor disputes.

The NMB continued its efforts designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act. The Board had five goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and contract arbitrators; (2) to ensure the use of e-business capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

## ANNUAL CASE AUDIT

In March 2012, the NMB conducted an intensive audit of all cases pending before the NRAB. The results of the audit allowed the NMB to update the status of its cases pending before the NRAB.

In June 2012, the NMB conducted an intensive audit of all cases pending before Public Law Boards and Special Boards of Adjustment. The Agency provided the Class I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The feedback from the audit enhanced the accuracy of the NMB case management system.

## GRIEVANCE MEDIATION

The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class I freight carriers and the labor organizations. During FY 2012, Arbitration Services made presentations at a meeting of the Class I freight railroads, the United Transportation Union, the IAM&AW and the Sheet Metal Workers International promoting grievance mediation as a means of resolving disputes. The NMB anticipates continuing this initiative during FY 2013.

## ARBITRATOR PRODUCTIVITY

The NMB continued its efforts to increase arbitrator productivity through rigorous enforcement of the six-month rule. Arbitrators who have not issued a decision within six months of a hearing are contacted monthly and encouraged to issue those decisions. Approximately 93% of all decisions are rendered within six months of the hearing. During FY 2013, the NMB will require that arbitrators render decisions within three months of a hearing.

## AGENCY TRANSPARENCY

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section 3 activities. Arbitrators, parties, and the public use the website to obtain information and forms instantaneously. The agency developed an Arbitrators Caseload Report and posted a link to the Report on the NMB website. The report shows by arbitrator, grievance cases of railroad employees the parties have chosen to pursue. It also indicates whether a case is late (i.e., a decision has not been rendered within 6 months of when a case was heard by the arbitrator). The Arbitrators Caseload Report is real-time in that it has a direct link to an NMB database reflecting updates as they are made by Arbitration Services staff. The availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests. The NMB has also placed an NMB NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators Caseload Report, the NMB's entire Section 3 caseload is on the NMB website ([www.nmb.gov](http://www.nmb.gov)).

## AGE OF CASES

In March 2012, the Board commenced a review of all open cases on Public Law Boards (PLBs) and Special Boards of Adjustment (SBAs) which were three years and older. In previous years, the NMB reviewed cases five years and older. The Board worked with the parties to obtain the status of the cases and to encourage the parties to either settle the cases or schedule the cases for hearing. As a result, the Board was able to close the overwhelming majority of these cases and have the remaining few scheduled for hearings. With the exception of the few scheduled for hearings, the Board was able to clear its records of all cases over three years.

The Board also contacted the NRAB to obtain the status of their cases over three years. This project is ongoing and will lead to a reduction of the old cases at the NRAB in fiscal year 2013.

---

## PAY PER CASE PROJECT

The NMB expanded a project in which arbitrators were paid on a per-case basis, instead of the normal per-day compensation. The project will be evaluated during the next fiscal year.

---

## BACKLOG OF CASES

The National Mediation Board used an increase in Section 3 funding to further reduce the backlog of cases. The NMB defines the administrative backlog as all cases over two years. At the end of FY 2012, 80% of the pending cases were less than two years.

---

## USE OF TECHNOLOGY

The NMB further expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are distributed to the parties. Parties have been trained to and now enter awards into the Knowledge Store. In some instances, valid awards are entered within 24 hours of completion.

# NATIONAL MEDIATION BOARD

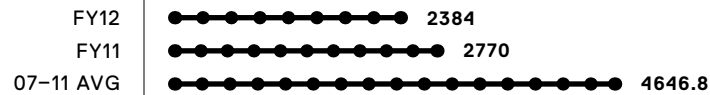
ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## ARBITRATION CASES

### MANAGEMENT DISCUSSION & ANALYSIS

28

#### START-PENDING



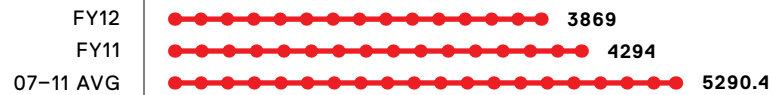
#### NEW



#### SUM



#### CLOSED



#### END-PENDING

